

1982 Ky. Op. Atty. Gen. 2-425, Ky. OAG 82-386, 1982 WL 177051 (Ky.A.G.)

***1 Office of the Attorney General
Commonwealth of Kentucky**

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July 14, 1982

Mr. Robert D. Cox
Principal
Director of Athletics
Breckinridge County High School
Route 1, Box 130
Harned, Kentucky 40144

Dear Mr. Cox:

You have requested an opinion of the Attorney General as to whether a public school may withhold a student's grades, credits and/or official records because of a student's failure to clear two classes of obligations to the school — (1) obligations arising from a deficiency due to required educational materials and (2) obligations arising from a deficiency due to an optional matter. You more particularly describe the two classes of obligations as follows:

“CASE A: May the grades, credit, and/or official records of a public school youngster be legally held because of that student's failure to return materials or pay obligations germane to his educational program? This would include lost or damaged assigned state textbooks; lost or damaged library books personally selected or assigned reading; and lost, damaged, or destroyed educational materials or equipment individually assigned.

“CASE B. May the grades, credit, and/or official records of a public school youngster be legally held because of that student's failure to return materials or pay obligations that were totally, voluntarily incurred by the student at the school's expense? This would include a failure to pay a cashed, bad check; failure to pay charged lunches; and, failure to turn in money raised by a club or organization for products checked out to that student.”

In reviewing your questions we first recognized that the purpose and interest of the state in providing a system of free common schools is to train the young to prepare them for responsible and productive citizenship. An important part of the training is ethical and honest dealing with their fellow men. Surely the best method of crime prevention is to inculcate the principles of honorable and law abiding conduct in the youth of our society. The

duties of citizenship should be emphasized along with the rights, and the school is one of the most important institutions for molding good character by precept and by practice. In practice, a school should insist that students meet their legal obligations.

Having said this, we are forced to say that a public school cannot use the withholding of grades, diplomas or records as a leverage to force a student to meet his obligations concerning property. There are other means available which are not only legally approved but are more instructive as to how business operates in the adult world, as we will indicate below.

TEXTBOOKS

The Legislature has provided by statute for the purchase and free distribution of textbooks in the public schools to pupils attending grades kindergarten through twelve. [KRS 157.100 - 157.180](#). [KRS 157.140](#) provides as follows:

“Each pupil, or his parent or guardian, shall be responsible to the teacher for all books not returned by the pupil, and a pupil not returning all books delivered to him shall not be entitled to the benefits of [KRS 157.100 - 157.180](#) until the books are paid for by the parent or guardian or accounted for in keeping with the regulations of the state board for elementary and secondary education.”

*2 The effect of this statute is to prohibit the issuing of additional textbooks to a student who has not returned or paid for books previously issued. The violation of the free textbook statute carries a penalty of a fine of from 100 to 500 dollars. [KRS 157.990\(1\)](#).

OTHER BOOKS AND EDUCATIONAL MATERIAL

If a student fails to return library books or other material loaned to him by the school and refuses to pay for the books or material, he may be charged with a misdemeanor in the juvenile court with theft by failure to make required disposition of property, [KRS 514.070](#); [KRS 208.020](#). The same statutes would apply to a failure to turn in money raised by a club or organization for products checked out to the student.

BAD CHECK

A person who fails to make good a bad check within ten days after receiving notice that the check has been returned by the bank may be charged with theft by deception under [KRS 514.040](#). If the accused is under 18 years of age, the charge is under the jurisdiction of the juvenile court. [KRS 208.020](#).

FAILURE TO PAY A DEBT SUCH AS CHARGES FOR LUNCHES OR OTHER PROPERTY PURCHASED ON CREDIT EXTENDED BY THE SCHOOL.

Failure to pay a debt is not a crime but a civil matter. The proper way to collect a debt is through a civil action in court, and because of the small amounts involved, small claims court may be available.

These are some of the legal remedies the law provides for the problems you have described concerning property and students in the public schools. There is no law providing that a school can withhold grades, diplomas or records as a means of enforcing its claim concerning property against a student. Most commercial transactions in the business world are carried out in good faith without recourse to the harsh penal provisions of the law or civil

litigation in the courts. This is generally true of the business transactions within the school community, and it is to be hoped that good faith transactions will be the prevailing custom. You have asked us about legal remedies and it has been necessary for us to state what they are and to also state that withholding grades is not one of them.

Yours very truly,
Steven L. Beshear
Attorney General

By: Carl Miller
Assistant Attorney General

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